

## STATE OF THE DIRECTOR'S OFFICE ADDRESS

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AT APPLETON, WISCONSIN

### INTRODUCTION

Thank you, Chief, for the introduction.

I'd like also to acknowledge the Chief Justice for departing from tradition by including this report on the activities—or some of them—of the Director's Office. It is fitting recognition of those who work behind the scenes daily on behalf of the courts and all of you. Some of them most of you know, others you do not—but they all contribute to the environment in which you are able to focus primarily on your case deciding function without having to overly concern yourselves about issues that, while important, are often not directly related to it.

As many of you know, the Director's Office is involved in a multitude of efforts; both ongoing and ad hoc and the list is an ever-changing one. It is not my intention to entertain you with a complete recitation of them, but to limit my comments to a few that we have identified as of major importance in the near term.

### COURT INTERPRETERS

In her remarks the Chief Justice talked about leadership and change—the kind that leaders aspire to accomplish. There is also change wrought by factors and circumstances beyond our control but to which, as responsible leaders, we must respond. Perhaps nowhere in the court system is such change more demanding of response than in the area of access for litigants who have communication barriers involving speaking, hearing and understanding English.

As you will hear repeated during this conference, the number of people appearing in our courts—litigants, victims and witnesses—who have language barriers continues to increase dramatically. Some communities feel the impact more acutely than others, but no jurisdiction can reasonably expect to escape it altogether.

In the nineties alone, the Hispanic and Asian-Pacific Islander populations in Wisconsin each increased by 50% while, at the same time, speakers of eastern European and African languages arrived in considerable numbers. In addition, it is estimated that 7% of the state's population is deaf or sufficiently hard of hearing to require accommodation under the Americans with Disabilities Act.

This is a major change not of our making and we are taking the necessary steps to adjust ourselves and our work environment to accommodate it.

In October of 1999 I appointed The Committee to Improve Interpreting and Translation in Wisconsin Courts, chaired by Judge Elsa Lamelas of Milwaukee. Judge Rick Brown of the Court of Appeals is vice chair and the committee is staffed by Atty. Marcia Vandercook of the Office of Court Operations. The committee's charge was to file a report by October of this year identifying and prioritizing actions that can be taken immediately to improve court interpreting and to make recommendations for budget initiatives for the upcoming biennium. The committee has responded with a comprehensive report which addresses interpreter related issues in a way that is both enlightened and enlightening and contains specific recommendations for action. The report is available and will be discussed at the business meeting on Thursday.

In response to those recommendations we have launched a major initiative to address the issues identified in the committee's report. We are seeking \$1.8 million over the next biennium to reimburse counties for the additional costs of:

- 1) bringing the state courts into compliance with the Americans with Disabilities Act (ADA) by providing sign language interpreters to all eligible litigants and jurors in all cases, regardless of indigency;
- 2) providing foreign language interpreters in all cases in which effective two-way communication with the court is hampered by language barriers—again, regardless of indigency;
- 3) increasing the statutory rate of state reimbursement from the present \$35/half day set in 1987 to a level more in keeping with the market rate for these services, which last year averaged \$40/hour. We are proposing \$30/hour for uncertified and \$40/hour for certified interpreters.

We are also seeking \$200,000 and a two-year project position to coordinate the initial development of an interpreter

education, training and certification program that will include the administration of certification exams and the development and maintenance of a statewide roster of qualified interpreters from which judges can make appointments with confidence that your appointee has demonstrated competence to serve the court.

## **LAW CLERKS**

Another hallmark of effective leaders is that they are not defeated by lack of success. In that spirit we are again—for the eleventh biennium since 1978—seeking law clerk assistance for the trial courts. In this budget we are requesting that the program start as a pilot in District Six and have requested enough money to reimburse the 11 counties the actual costs of providing up to 10 full-time equivalent law clerks for the 21 judges in the district. While the \$400,000 cost of this program is significant, it is a reasonable and modest approach to a long recognized and unmet need. We hope, by designing this as a pilot, to generate more legislative support than this proposal has enjoyed in the past. Toward that end I have asked Amanda Todd, the court system's information officer, to step up activity on the ride along program and would ask you—particularly those of you in more rural jurisdictions without access to law student resources on a regular basis—to assist in that effort by working with Amanda to invite your legislators to sit with you in court where they can see—and be shown—the value of this still missing resource. A strong argument for this assistance can be made, it seems to me, by pointing to the large and increasing incidence in our courts of pro se litigants who, because of their lack of legal training and understanding of the proceedings, often place a much heavier burden on the judge and others involved in the system to insure a just result.

## **PRO SE**

Although all of the underlying causes are not completely clear, the manifestations are: self-represented litigants are coming to our courts in unprecedented and burgeoning numbers. This represents, at least potentially, a sea change in our customer base with significant implications for how we do business, how we gather and process information and how we style and present orders and judgements with a reasonable expectation that they will be understood and followed by litigants with little or no legal training.

Recently in Milwaukee a review of family cases revealed that at least one party is unrepresented in over 70% of the cases. According to a report issued earlier this year, the percentages of cases involving one or more unrepresented parties average 53% in the primarily rural Tenth District. The results in District 5, Dane and surrounding area are similar and a quick and unverified query of the family case database statewide indicates that all of those estimates, including the one from Milwaukee, are probably conservative.

The early response to this phenomenon has been the establishment in several jurisdictions of the projects and programs referred to by the Chief Justice. In September the Chief appointed a pro se working committee which will shortly file its report and recommendations. Among them is the creation of simplified forms for use statewide by pro se litigants. We are hopeful that, with the continuing help of members of that working group and some temporary staff assistance, we will be able to create and make available through a variety of outlets simplified forms for use, first and particularly, in family cases.

## **JURIES**

On the agenda for the business meeting is the matter of approval of a conference resolution in support of work already begun by the Chief Judges and District Court Administrators to modernize the jury system in Wisconsin. If you approve, and I would urge you to do so, the committee's work will be focused primarily in five areas:

- 1) Seeking revision of the Department of Transportation (DOT) juror source list to make the names we get from it more useful to the courts. Because of a fairly recent change in DOT's renewal policy, the list is currently populated with addresses that can be as many as eight years old. We will continue to work with DOT on getting more current information that will assist us in reducing the rate of non-response to jury summonses.
- 2) Investigating statutory authority for the use of additional source lists, if beneficial and appropriate.
- 3) Increasing the statutory protection of certain juror information, the availability of which may be a disincentive to jury service.

- 4) Suggesting a minimum juror fee and mileage reimbursement to ease the burden that service places on some of our citizens.
- 5) Revisiting the sanctions imposed for non response to qualification questionnaires and failure to appear for service.

Although it is not in their charter as presented in the resolution, I would hope that the committee will also get to the issues of suggested/minimum accommodations and services that trial courts should provide to those citizens who serve their communities and the court system as jurors.

## **TECHNOLOGY**

One area of change in which we are an early and full participant is that of electronic filing. While this is, strictly speaking, more a bar than a bench issue, the pressure from vendors and the bar to move to e-filing is intense and growing—both locally and nationally. For more than a year our technical staffs have been involved in the national effort to standardize data elements and their definitions to facilitate the free flow of data electronically when we and other jurisdictions are able to provide this option. During the past year the Electronic Signatures Committee chaired by Judge Dan Anderson identified issues and made recommendations that have implications for aspects of e-filing. I have recently appointed another committee which will build on the excellent work done by Judge Anderson's committee as it details the business side (as opposed to technical) requirements of an e-filing system for Wisconsin. That committee will include members of the Electronic Signatures Committee and others and be co-chaired by Clerk of Circuit Court for Racine County, Taraesa Wheary, and the Chief Deputy Clerk of the Supreme Court and Court of Appeals, Theresa Owens, who worked on a similar effort for the Iowa Supreme Court before joining us several months ago. While you are here you will have the opportunity to see a short demonstration of e-filing put on by the Circuit Court Automation Program (CCAP) and the Office of Information Technology during the Planning and Policy Advisory Committee (PPAC) portion of the program and I urge any of you with an interest to do so.

A second area of technology in which the speed with which we have changed belies the judiciary's reputation for reaction rather than action is the generation of information and the ability to share it which, in some legal areas, has outstripped

our statutory authority to do—at least the sharing part. An example is some of the outcomes of automating the juvenile information systems across the state. We have discovered that counties have devised ways to share information in juvenile cases with those actors in the juvenile justice system who need to have it in order to process cases, to assure proper evaluations and to ensure that appropriate services are available to those who need them. We also learned that while we now have more ready access to more and better information in these cases, our legal authority to share it electronically with those who need it is questionable at best. This has become an issue in counties where this information has routinely and productively been shared over time and where the introduction of automation, at least potentially, threatens that exchange.

To address this problem I have recently issued an invitation jointly with the President of the Wisconsin Circuit Court Clerks' Association and other court and juvenile justice associations to work on an appropriate short-term legislative solution which will recognize the need to share this valuable information with appropriate juvenile justice entities and grant express authority to do so. We hope to be able, during this session of the Legislature, to come up with at least the beginning of an answer to this dilemma and will be relying in this effort, as in the others that both the Chief and I have mentioned, on your help in both formulation and implementation.

## **INTRANET**

As we convene today we are testing in Madison a court system Intranet that will allow us to communicate electronically with the judiciary over a more private version of the Internet dedicated to the court system's internal business. Initially, in November of this year, it will be employed to convey information from the Office of Management Services regarding personnel and budget/accounting matters, judges' and personnel manuals, directories and other subjects in which interest is confined primarily to the court system. Longer term, you will be able to process monthly pending-case certifications and travel vouchers electronically although that will come in a later phase, after the development of interactive, fillable computer forms. Through the intranet we hope substantially to increase the amount of pertinent and useful information available to you without continuing to fill your offices with paper. We will keep you apprised of developments in this area and alert you to the new system's "rollout" as it takes place.

## **GRANTS CLEARINGHOUSE**

Over the past year we have been working internally—struggling, really—to develop and maintain a useful and informative compendium of funding sources for projects that could be of benefit to the court system but are not funded in either the state or county budgets. We have identified a growing number of mostly federal and foundation sources of such funding and the kinds of projects they will support and have for several months been sharing that information with the DCAs. With the rollout of the court system Intranet this information will be available to all of you and we encourage you, with the help of your Chief Judges and DCAs, to take advantage of these funds as appropriate to pilot potentially useful projects in your counties and districts.

## **CONCLUSION**

I have touched on a few of the larger initiatives that we have embarked on for the next year and the Chief on others. Some or most are being undertaken without the addition of permanent staff or other resources. Because of that, the success of these ventures and others will continue to depend increasingly on the volunteer contributions that judges and others are able and willing to make. Soon after the conference a questionnaire will circulate seeking your expression of interest in serving on various boards and commissions that are instrumental to the accomplishment of the non-case-related work of the judicial branch. In addition, this year, we will be asking you to identify areas in which you have interest or background that will allow you to make a special contribution should an ad hoc committee be established. In closing I urge you to be generous in your response to this solicitation and make your special skills available as we face the challenges and seize the opportunities of the next year and beyond.

Thank you for your attention and your participation, past, present and future.